

another list; Wyoming, less than twelve as prescribed by law. North Dakota may be less than twelve in courts not of record. Illinois, the legislature may provide for less than twelve in the district courts.

THE CHAIRMAN: Delegate Henderson, I think Delegate Blair's question goes to those states that authorize less than unanimous verdict, regardless of the size of the jury.

Is that correct?

DELEGATE BLAIR: Yes.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: There are about fifteen states that provide that including New Jersey, New York, Virginia, California—a great number of them; I have the list here if you care to look at it.

THE CHAIRMAN: Delegate Blair.

DELEGATE BLAIR: What in your opinion would be the effect of this provision. Would it speed up the criminal processes? Would it in your opinion be to the benefit of the accused or the State? What is the effect of it?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I think it would speed up the process of deliberation, because a great deal of time is spent in the juries' deliberation of getting that last one man who may be a very stubborn fellow to fall in line with them, and that certainly requires a lot of persuasion.

It may be that he is opinionated one way or another. He may be holding out for conviction or may be holding out for acquittal, so it certainly cuts both ways.

I think in some cases it is actually detrimental to the accused, because a man who is holding out for conviction may force a retrial of the matter although he is in a minority of one; so I do not think it is designed to favor either one side or the other.

It is designed, I think, to put into effect at least partially the democratic principle that the majority controls, which in every other phase of the activity except the medieval survival is the democratic rule.

THE CHAIRMAN: Since the time has already expired, would you ask only one more question?

DELEGATE BLAIR: The main principle is to speed up the work in the courts?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: And to give a more just result.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Yes, sir. I see some drafting problems at least in my own mind, and I would like to ask Delegate Henderson at least a couple of questions for clarification.

THE CHAIRMAN: Proceed.

DELEGATE JOHNSON: Delegate Henderson, this amendment does not interfere with the criminal jury?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: It does not. It keeps the jury at twelve in all criminal cases, but it provides that ten could render a verdict.

THE CHAIRMAN: Delegate Johnson.

DELEGATE JOHNSON: Delegate Henderson, when you use the term "may authorize", could that also be that the General Assembly may provide by law the means to carry out the intention of your amendment?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: That was the meaning of the phrase, that they may provide by law for that or they might not.

DELEGATE JOHNSON: And Delegate Henderson, it is clear, is it not, that in capital cases a unanimous verdict of twelve must be handed down?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: That is correct.

THE CHAIRMAN: Delegate Henderson, the Chair has one question that was touched on by Delegate Johnson.

I assume in providing that the General Assembly may authorize, you meant that the General Assembly could act only by law, that is subject to gubernatorial veto?

DELEGATE HENDERSON: That is correct.

THE CHAIRMAN: So that the Committee on Style would have no difficulty, would you consent to modifying your amendment to insert the words "by law" after the word "may" in line six?

DELEGATE HENDERSON: I would so agree.

THE CHAIRMAN: Is there any objection to so modifying the amendment? The Chair